MONTANA LEGISLATIVE HISTORY

Chapter 132 19 71

Bill H _____ S 40 Original bill & history ___C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	2-17	✓C	Hearing Date(s)	1-13	✓C
	2-18	✓C		_____	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	_____	___C			

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

SENATE JUDICIARY COMMITTEE MEETING - January 13, 1971

The meeting was called to order by the Chairman, Senator Gilfeather. All the members were present except Senator Sheehy. Senator Vainio was not present, having been excused.

Senate Bill 16, as now amended, was considered. The amendments to this bill were enumerated by Senator Moore. It was moved by Senator Turnage to adopt the amendments and it was then moved by Senator Turnage that Senate Bill 16, AS AMENDED, DO PASS.

Senator Hafferman asked that Senate Joint Resolution 7 be put in a sub-committee, and he and Chairman Gilfeather discussed this briefly. It was decided that SENATE JOINT RESOLUTION NO. 7 be passed over by action of the committee until January 20.

Senate Joint Resolution 3 was brought up before the committee and Senator Hafferman moved that it pass. There followed a discussion of this Resolution and Senator Hafferman withdrew his motion. The secretary was instructed to notify Senator Klindt that this Resolution 8 would be heard on January 14.

Senate Bill 17 was explained by Senator Moore and Senator Turnage MOVED THAT SENATE BILL 17 DO PASS.

Chairman Gilfeather explained Senate Bill 74 briefly. Senator Turnage MOVED THAT SENATE BILL 74 DO PASS.

Senate Bill 40 was given consideration by Senator Stephens. Senator Turnage questioned the amendment of the title of this bill. Senator Stephens made a motion that the title of Bill 40 be amended to read as follows:

> "A Bill for an Act Entitled: An Act to Amend Section 32-2142, R.C.M., 1947, reducing the amount of alcohol necessary to presume a person under the influence of intoxicating liquor and defining the basis for determining the same, and providing an effective date";
>
> Further to amend Senate Bill 40 by adding a Section 2, as follows; "This Act shall be in full force and effect from and after its passage and approval".

The above amendments were adopted. Senator Stephens MOVED THAT SENATE BILL 40, AS AMENDED, DO PASS.

Senator Gilfeather asked Senator Stephens when he would like Bill 39 heard. It was decided to hold a public hearing on this bill, possibly in the Governor's Reception Room, on January 21.

The secretary was instructed to notify Mr. Robert Durkee about this hearing of Bill 39.

Senator Gilfeather said he would ask Senator McKeon about Bill 41. The Chairman then asked if anybody knows who has a special interest in this bill.

The secretary was instructed to write to the Presidents of Associated Students of the six Units of the University, also to Carroll College and to Eastern Montana College, regarding Bill 41.

Concerning Senate Bill 4, Senator Turnage said the first amendment of this bill isn't needed and it was decided to amend this bill.

Regarding Senate Bill 51, Senator Gilfeather asked Senator Turnage to see people about this bill.

Senate Bill 40 was brought up before the committee and SENATE BILL 40 WAS GIVEN A DO PASS, AS AMENDED.

It was moved to adjourn the meeting.

P. J. Gilfeather

Senator P. J. Gilfeather, Chairman

SENATE JUDICIARY BILLS

DO PASS - - 24 SENATE BILLS

SB-15 -- DO PASS - To validate all joint tenancies created by direct conveyance

SB-26 -- DO PASS - Validating and approving bonds heretofore issued by public bodies of this state

SB-17 -- DO PASS - To change the time for filing annual reports

SB-74 -- DO PASS - Freedom from discrimination for women in employment

SB-86 -- DO PASS - To provide that attorneys fee may not be recovered unless material-men give notice to landowners

SB-119 - DO PASS - To repeal Chapter 6, Title 41, R.C.M. 1947

SB-140 - DO PASS - Providing penalty for filing a claim for direct payment of money in an improper venue

SB-141 - DO PASS - Providing for the venue of actions on contracts

SB-228 - DO PASS - Relating to who may sue without costs

SJR-7 -- DO PASS - Create an interim joint committee from the standing Judiciary Committees to conduct study of the laws relating to probate procedure

SB-156 --DO PASS - Providing that agreements in contracts entered into in Montana purporting to change the place to another state, are void

SB-314 --DO PASS - To provide for recording of abstracts of instruments

SB-317 --DO PASS - To assure eligibility for aid to dependent children, assistance for the care of children where father unemployed

SB-242 --DO PASS - Relating to recommutation of sentence of persons under age of 21

SB-308 --DO PASS - To provide for voluntary payment of personal injury claims

SB-40 --DO PASS - Reducing the amount of alcohol necessary to presume a person under influence of intoxicating liquor

SB-329 --DO PASS - To delete the salary limitation for special assistant attorney general working with escheated estates.

- [x] DO PASS
- [ ] DO NOT PASS
- [ ] BE CONCURRED IN
- [ ] BE NOT CONCURRED IN
- [ ] BE ADOPTED
- [ ] BE NOT ADOPTED

STANDING COMMITTEE REPORT

February 4, 19 71

Bill Clerk

per Jan. 14, Journal, not attached as amended, do pass

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 40

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 32-2142, R.C.M. 1947, REDUCING THE AMOUNT OF ALCOHOL NECESSARY TO PRESUME A PERSON UNDER THE INFLUENCE OF INTOXICATING LIQUOR AND DEFINING THE BASIS FOR DETERMING THE SAME, AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That SENATE Bill No. 40

DO PASS

☐ DO PASS
☐ DO NOT PASS
☐ BE CONCURRED IN
☐ BE NOT CONCURRED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED

STANDING COMMITTEE REPORT

January 14, 19 71

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 40

A BILL FOR AN ACT ENTITLED, "AN ACT TO AMEND SECTION 32-2142, R.C.M., 1947."

Respectfully report as follows: That SENATE Bill No. 40

be Amended as follows:

(1) Amend the title to read as follows: "A BILL FOR AN ACT ENTITLED: " AN ACT TO AMEND SECTION 32-2142, R.C.M., 1947, REDUCING THE AMOUNT OF ALCOHOL NECESSARY TO PRESUME A PERSON UNDER THE INFLUENCE OF INTOXICATING LIQUOR AND DEFINING THE BASIS FOR DETERMINING THE SAME, AND PROVIDING AN EFFECTIVE DATE";

(2) Further amend Senate Bill No. 40 by adding a Section 2, as follows: "This Act shall be in full force and effect from and after its passage and approval".

AND AS AMENDED
DO PASS

JUDICIARY COMMITTEE

42nd Legislative Assembly

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
SB 320	Provides 60 days notice from insurer to named insured of intention not to renew policy, etc.	2/12/71	2/22/71		2/22/71	BE NOT CONCURRED IN	KILLED
SB 332	Provides that within 90 days after forfeiture of bail if defendant appears, bail must be discharged	2/12/71	2/22/71		2/22/71	BE NOT CONCURRED IN	KILLED
SB 40	Reduces amount of alcohol necessary to presume person under influence of intoxicating liquor	2/13/71	2/17/71		2/18/71	BE CONCURRED IN	SIGNED BY GOVERNOR
SB 211	Establishes statute of limitation for amending inheritance tax reports	2/13/71	2/22/71		2/22/71	BE NOT CONCURRED IN	KILLED
SB 270	Act to change the penalty for possession of marihuana	2/13/71	2/22/71		2/22/71	BE CONCURRED IN	

February 17, 1971

JUDICIARY COMMITTEE

The meeting was called to order in the law libray of the capitol at 9 a.m. on Wednesday, February 17 with Chairman Jeffrey J. Scott presiding. All members were present.

SENATE BILL 39 — Senator Stan Stephens from District 19 gave a description of this bill, which would provde for an intoxication test and consent thereto, commonly known as the implied consent bill. He gave a detailed explanation of the history of this bill, and stated that the constitutionality of this matter has been thoroughly investigated and adjudicated. Mr. Albert Goke, the Highway Safety Director, gave a statement in support of this bill. He stated that Montana is one of the four states remaining without this law. Captain Ernie DeDycker from the Hihgway Patrol, gave a statement in support of this bill. Mr. Glen L. Martin, representing the Governor's Highway Safety Task Force, offered testimony in support of this legislation. Mr. Tom Mooney, representing theMontana AAA, gave a statement in support. Mrs. Sylvia Casey, from the Montana Safety Foundation, gave a statement in support. Marilyn Koetter, representing the Montana Council of Churches and the Montana Association of Women Highway Safety Leaders, gave a statement in support. (See Exhibit A.) Representative Pat McKittrick from Cascade County offered an amendment he felt should be in this bill. There were no opponents testifying. Questions were asked of the numerous witnesses. There were no further witnesses and the hearing on this bill was closed.

SENATE BILL 40 — Senator Stan Stephens gave an explanation of this bill, which is a companion bill to Senate Bill 39. This bill is an act to reduce the amount of alcohol necessary to presume a person under the influence of intoxicating liquor from 0.15 per cent to 0.10 per cent. He presented a chart to the committe. (See Exhibit B.) Dr. John Pfaff, pathologist from Great Falls, gave a detailed statement as to how alcohol affects the human body. He stated how alcohol inhibits driving ability, stating that peripheral vision is first affected, then mental judgement, a state of tranquility exists, and then neuromuscular coordination is affected. He stated that normally the following levels of alcohol affect the human being in the following manner:

0.05 per cent alcohol	Some loss of neuromuscular coordination
0.10 per cent alcohol	Medically a maximum of a tolerable limit a person should have in order to drive - probably should be less.
0.15	Person considered dead drunk
0.30	Comatose state
0.40	Apt to die

There were no further proponents and no opponents to this bill. No questions were asked and the hearing on this bill was closed.

Chairman Scott proposed that the bills be taken up in executive session tomorrow. The meeting was adjourned.

Jeffrey J. Scott, Chairman

Alice Omang, Secretary

Mr. Chairman:

I am Marilyn Koetter and I represent the MONTANA ASSOCIATION OF WOMEN HIGHWAY SAFETY LEADERS.

We strongly urge you to pass Senate Bills 39 and 40.

Our Association is comprised of women's clubs and organizations throughout the state. The following are included:

Montana Parent-Teachers Association
American Legion Auxiliary
Homemakers O.D.O.
Montana Cowbelles
Farm Bureau
Church Women United
Montana Extension Homemekers
B.P.W.
Montana Medical Auxiliary
VFW Auxiliary
Montana Federation of Women's Clubs
Montana Insurance Women
DAV Auxiliary
Montana Optometric Auxiliary
Montana Jayceens

Discussion of the companion bills were a major item of our discussion and consideration at the Governor's Conference on Highway Safety held recently in Helena. Representatives of the above groups were in unanimous agreement that this sensible legislation will save lives on Montana Highways.

Since that meeting the issue has been discussed in our separate groups, and our views have been spoken and written to most of the members of this present Legislature.

You may be interested to know that our survey of House and Senate members contacted in the last few weeks indicate this response:

REPLIES FROM 96 LEGISLATORS

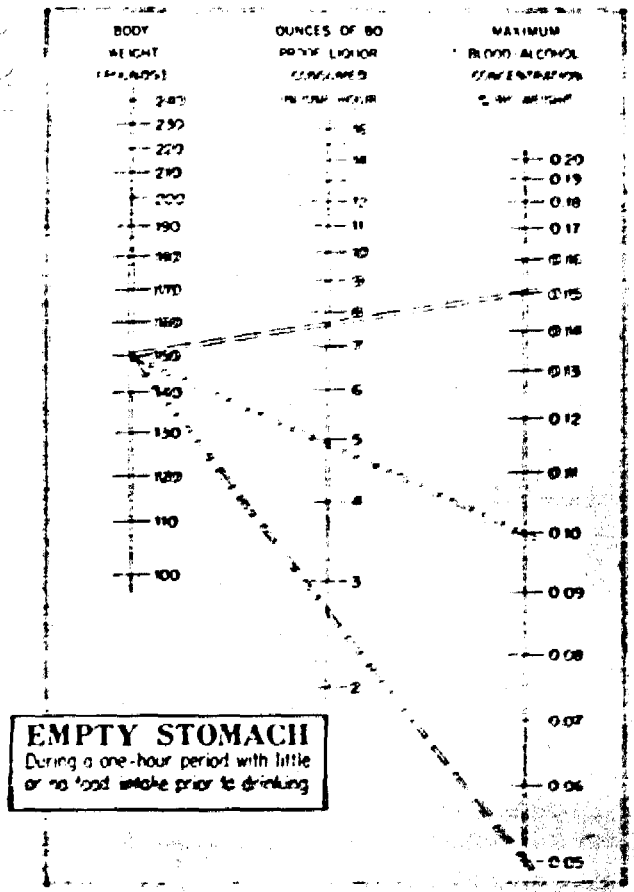
84 FOR .... 4 AGAINST .... and 8 declared that they were in favor of the idea but needed to see an actual bill before they would say definitely whether they approved or not.

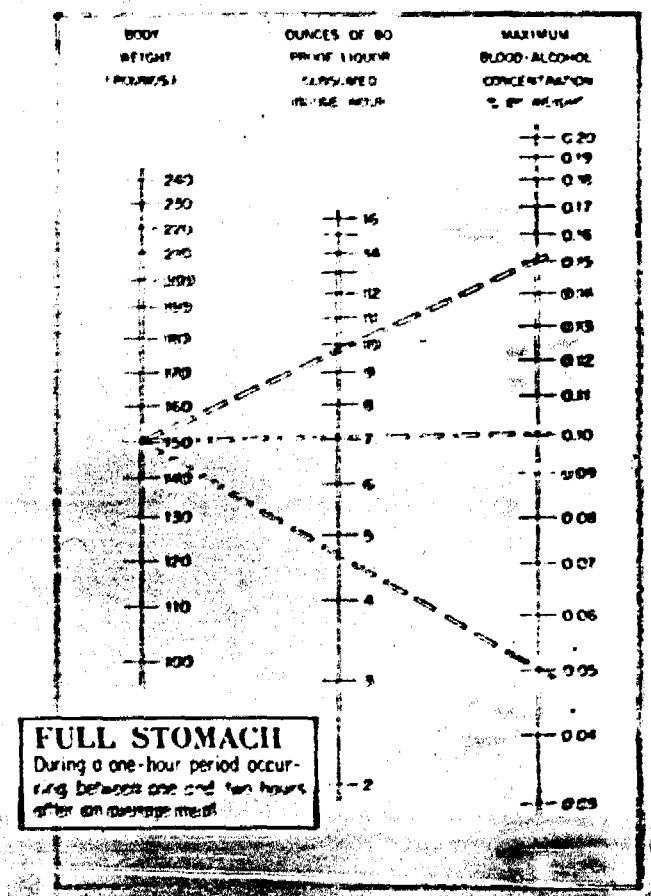
NOW IS THE TIME to enact into legislation this Highway Safety measure which seems to have such universal approval in Montana.

Signed:
Marilyn Koetter

Exhibit D

ESTIMATED AMOUNT OF 80 PROOF LIQUOR NEEDED TO REACH APPROXIMATE GIVEN LEVELS OF ALCOHOL IN THE BLOOD


BODY WEIGHT
OUNCES OF 80 PROOF LIQUOR
MAXIMUM BLOOD-ALCOHOL CONCENTRATION
EMPTY STOMACH
During a one-hour period with little or no food intake prior to drinking


BODY WEIGHT
OUNCES OF 80 PROOF LIQUOR
MAXIMUM BLOOD-ALCOHOL CONCENTRATION
FULL STOMACH
During a one-hour period occurring between one and ten hours after an average meal

The examples above show the approximate average amount of 80 proof liquor a 150 pound person would have to consume in a one-hour period to reach 0.10, the percentage-weight of alcohol in the bloodstream which presumes a driver to be intoxicated.

To determine the approximate average number of ounces of 80 proof liquor needed in a one-hour period to reach 0.10%, draw a line from BODY WEIGHT to 0.10%. The line will intersect the average number of ounces needed to produce 0.10%. Follow the same procedure to determine the amount of liquor needed to reach other blood-alcohol concentrations, such as 0.05%, 0.15% etc.

Charts show rough averages only. Many factors affect the rate of alcohol absorption into the bloodstream. Amounts of food consumed, kind of food and drink consumed, and percentage of fatty tissue in the body, for examples, can vary blood-alcohol concentration indicated on above charts for each hour after the start of drinking.

NAME Albert Goke BILL NO. SB 39 SB 41

ADDRESS _____ DATE 2/17/71

WHOM DO YOU REPRESENT? Highway Safety Dir

SUPPORT? ✓ OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

SB 37
SB 40

NAME Glen L. Martin BILL NO. ____

ADDRESS 12 N. W. Dr. DATE 2/17/71

Bozeman, Mt

WHOM DO YOU REPRESENT? Governor's Highway Safety Task Force

SUPPORT? X OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Sylvia Casey BILL NO. SB 39-40

ADDRESS Helena DATE

WHOM DO YOU REPRESENT? Montana Safety Federation

SUPPORT? X OPPOSE? AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Marilyn Kautter BILL NO. 39-40

ADDRESS 403 N. Ewing DATE Feb. 12, 1971

Helena, Mont.

WHOM DO YOU REPRESENT? Montana Council of Churches & Montana Association of Highway Safety Leaders

SUPPORT? yes OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

39

NAME [illegible] BILL NO. [illegible]

ADDRESS [illegible] DATE [illegible]

[illegible]

WHOM DO YOU REPRESENT? [illegible]

SUPPORT? X OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Maarke J. Mulcahy BILL NO. 39 + 40

ADDRESS Butte, Montana DATE 2-17-11

WHOM DO YOU REPRESENT? Montana Police Protective

SUPPORT? X OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

February 12, 1971

JUDICIARY COMMITTEE

The meeting was called to order in room 300 of the capitol on Thursday, February 12 at 9 a.m. with Chairman Jeffrey J. Scott presiding. All members were present.

SENATE BILL 34 — Senator Thiessen gave a description of this bill which provides that the order discharging an executor or administrator must be made within 2 years. There were no further witnesses and no questions were asked.

SENATE JOINT RESOLUTION 25 — Representative Dzivi gave a description of this resolution, which requests and directs the criminal law commission to submit a separate bill for each chapter of the proposed criminal code revision to be submitted to the 43rd legislative assembly. There were no further witnesses, no questions were asked and the hearing on this bill was closed.

SENATE BILL 314 — Senator Gilfeather explained the contents of this bill, which provides for recording of abstracts of instruments and provides for constructive notice thereof. Senator Turnage gave a statement in support of this bill. There were no further witnesses, questions were asked and the hearing on this bill was closed.

SENATE BILL 102 — Senator Lynch gave a statement describing this bill, which provides false arrest insurance for sheriffs and sheriffs' departments. Mr. Don Garrity, representing the Montana Sheriff's & Peace Officers' Association, gave a statement in support. There were no further witnesses, questions were asked and the hearing on this bill was closed.

SENATE BILL 294 — Senator Lynch gave a description of this bill which would shorten the period for filing mechanics' liens by providing for filing of a notice of completion. Mr. John L. Peterson, representing the Montana Saving and Loan League, gave testimony in support of this bill. Mr. Don Garrity, representing the Montana Savings and Loan League, also gave a statement in support. There were no further witnesses, questions were asked and the hearing on this bill was closed.

SENATE BILL 242 — Mr. Edwin G. Kellner, Director of the Department of Institutions, gave testimony in support of this bill, which relates to recommutation of sentence of persons under the age of 21 who had b een sentenced to the prison and to the committment of such person to the

department of institutions and to the transfer of such person to a juvenile facility by providing that prisoners of the state prison of the age of 25 or younger may be transferred to the Swan River Youth Forest Camp. Mrs. Dorothy Eck, representing the League of Women Voters, gave a statement in support of this bill. Questions were asked and the hearing on this bill was closed.

SENATE BILL 222 — Mr. Dean Reed, from the legislative auditor's office, appeared in support of this bill in place of Senator Thiessen. This bill provides for the disposition of unclaimed property in the state of Montana by transferring the duties from the office of the state treasurer to the state board of equalization. (See Exhibit A.) Mr. Tom Stoll from the state board of equalization gave testimony in favor of this bill and offered to answer any question that the committee might have. There were no further witnesses. Questions were asked and the hearing on this bill was closed.

EXECUTIVE SESSION

SENATE BILL 39 — Mr. Baeth moved that Senate Bill 39 be concurred in. Mr. Mather made a substitute motion to amend the bill on page 3, line 13 by striking the words "or proceeding"and also the same on line 23. Motion failed. Mr. Scott moved to amend on page 3, lines 13 after the word "criminal" by adding the material "or civil". Motion failed. Mr. Mather made a substitute motion that the bill be amended on page 1, line 21 by striking the material "in actual physical control of". Motion failed. Mr. Towe made a substitute motion that the bill be amended on page 4, line 3 after the word "acting" by adding the material "under the standards adopted by the state board of health and". Motion failed. The committee considered the amendment proposed by Representative McKittrick. (See Exhibit B.) Mr. Greely moved that this amendment be not adopted. Motion carried. A vote was taken on the original motion that Senate Bill 39 BE CONCURRED IN. Motion carried.

SENATE BILL 40 — Mr. Baeth moved that Senate Bill 40 BE CONCURRED IN. Motion carried.

A motion was made that the meeting be adjourned. Motion carried.

Jeffrey J. Scott, Chairman

Alice Omang, Secretary

- ☐ DO PASS
- ☐ DO NOT PASS
- ☒ BE CONCURRED IN
- ☐ BE NOT CONCURRED IN
- ☐ BE ADOPTED
- ☐ BE NOT ADOPTED

STANDING COMMITTEE REPORT

February 18, 1971

Mr. [redacted] SPEAKER.

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 40

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 32-2142, R.C.M., 1947, REDUCING THE AMOUNT OF ALCOHOL NECESSARY TO PRESUME A PERSON UNDER THE INFLUENCE OF INTOXICATING LIQUOR AND DEFINING THE BASIS FOR DETERMINING THE SAME, AND PROVIDING AN EFFECTIVE DATE.":

Respectfully report as follows: That SENATE Bill No. 40

[redacted] BE CONCURRED IN

House Committee Report Form

Jeffrey J. Scott Chairman

Admissible evidence.

cating liquor, evidence of the amount of alcohol in the person's blood at the time of the act alleged as shown by a chemical analysis of his blood, breath, or urine is admissible.

Proof of refusal to submit to test.

(c) If the person under arrest refused to submit to the test as herein above provided, proof of refusal shall be admissible in any criminal action or proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor.

Other evidence.

(d) The provisions of this act do not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of intoxicating liquor.

Physician or registered nurse may take blood sample.

Section 3. **Administration of tests.** (a) Only a physician or registered nurse acting at the request of a peace officer may withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of breath or urine specimens.

Person tested may select physician or registered nurse.

(b) The person tested may, at his own expense, have a physician or registered nurse, of his own choosing administer a test, in addition to any administered at the direction of a peace officer, for the purpose of determining the amount of alcohol in his blood at the time alleged as shown by chemical analysis of his blood, breath or urine. The failure or inability to obtain an additional test by a person shall not preclude the admissibility in evidence of the test taken at the direction of a peace officer.

Full information.

(c) Upon the request of the person tested full information concerning the test taken at the direction of the peace officer shall be made available to him or his attorney.

No liability.

(d) No physician or registered nurse shall incur any civil or criminal liability as a result of the proper administering of a blood test when requested in writing by a peace officer to administer such a test.

Privacy.

(e) If the test given under the preceding section is a chemical test of urine, the person tested shall be given such privacy in the taking of the urine specimen as will

insure the accuracy of the specimen and, at the same time, maintain the dignity of the individual involved.

Uniform standards.

(f) The Montana highway patrol board in cooperation with the state board of health or any other appropriate agency, shall adopt uniform standards for the giving of blood alcohol tests and may require certification of training to administer such tests as deemed necessary.

Severability clause.

Section 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

Repealing clause.

Section 5. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 1, 1971.

CHAPTER NO. 132

An Act to Amend Section 32-2142, R.C.M., 1947, Reducing the Amount of Alcohol Necessary to Presume a Person Under the Influence of Intoxicating Liquor and Defining the Basis for Determining the Same; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1 Section 32-2142, R.C.M., 1947, is amended to read as follows:

Unlawful to drive under influence of liquor.

"32-2142. **Persons under the influence of intoxicating liquor or of drugs.** (a) It is unlawful and punishable as provided in paragraph (d) of this section for any person who is under the influence of intoxicating liquor to drive or be in actual physical control of any motor vehicle upon the highways of this state.

Presumptions in criminal prosecutions.

(b) In any criminal prosecution for a violation of paragraph (a) of this section relating to driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, urine, breath or other bodily substance, shall give rise to the following presumptions:

0.05 percent or less.

1. If there was at that time 0.05 per cent or less by weight of alcohol in the defendant's blood it shall be presumed that the defendant was not under the influence of intoxicating liquor:

Over 0.05 percent but less than 0.10 percent

2. If there was at that time in excess of 0.05 per cent but less than *0.10* per cent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant:

0.10 per cent or more.

3. If there was at that time *0.10* per cent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor:

Determination of percentage of alcohol.

4. Per cent by weight of alcohol in the blood shall be based upon *grams* of alcohol per one hundred (100) *cubic centimeters* of blood:

Other evidence.

5. The foregoing provisions of paragraph (b) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of intoxicating liquor.

Unlawful to drive under influence of drugs.

(c) It is unlawful and punishable as provided in paragraph (d) of this section for any person who is an habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely driving a motor vehicle to drive a motor vehicle within this state. The fact that any person charged with a violation of this paragraph is or has been entitled to use such a drug under the laws of this state shall not constitute a defense against any charge of violating this paragraph.

Penalties on conviction.

(d) Every person who is convicted of a violation of this section shall be punished by imprisonment in the county or city jail for not more than six (6) months or by a fine of not less than one hundred dollars ($100.00) or more than five hundred dollars ($500.00) or by both such fine and imprisonment. On a second conviction he shall be punished by imprisonment in the county or city jail for not less than ten (10) days nor more than six (6) months, to which may be added, at the discretion of

the court a fine of not less than three hundred dollars ($300.00) nor more than five hundred dollars ($500.00). On the third or subsequent conviction he shall be punished by imprisonment for a term of not less than thirty (30) days nor more than one (1) year, to which may be added at the discretion of the court a fine of not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000.00).

Municipal ordinances.

(e) Each and every municipality in this state is hereby given authority to enact the foregoing paragraphs (a), (b), (c) and (d) of this section, with the word "state" in the first sentence of paragraphs (a) and (c) changed in each instance to read "municipality", as an ordinance, and is hereby given jurisdiction of the enforcement of said ordinance, and of the imposition of the fines and penalties therein provided.

Revocation of license.

(f) The board shall forthwith revoke the license or permit to drive and operating privilege and any nonresident operating privilege of any person upon receiving a record of such person's conviction or forfeiture of bail not vacated under this section."

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1971

CHAPTER NO. 133

An Act Amending Sections 26-1502, 26-1505, and 26-1507, R.C.M., 1947, and Adding New Sections Establishing the Policy of the State of Montana on Protection of Fishing Streams, Providing for Submission of Plans for Construction and Hydraulic Projects Affecting Such Streams to the Montana Fish and Game Commission, for Review of Such Plans and Exempting Certain Projects and Parties.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-1502, R.C.M., 1947, is amended to read as follows:

"26-1502. **Notice of projects to be given fish and game**